

Council

12th July 2012

Report of the Cabinet Member Planning, Transport and Sustainability

City of York Local Development Framework

Summary

1. This report considers the most appropriate way forward for the Council with regard to the City of York LDF Core Strategy. It considers the current position of the plan, the relatively recent changes in public policy and future options.

Background

LDF Core Strategy Context

2. The Core Strategy was submitted to the Secretary of State on 14th February 2012 and an Inspector was appointed to conduct an Examination. The Inspector undertook a preliminary assessment of the Core Strategy and supporting documents and identified a number of significant concerns regarding potential soundness and legal compliance. The Council responded to these concerns and provided a timetable for any extra work considered necessary.
3. The concerns raised by the Inspector reflected the new public policy context including the implications of Localism, the National Planning Policy Framework (NPPF) and the need to meet the new Duty to Cooperate. More specifically they highlighted the need for further detailed viability and deliverability work for housing and employment sites including strategic allocations such as York Central and British Sugar / Former Manor School. The need for further work relating to defining the Green Belt, the detailed policies relating to Strategic Allocations and Waste and Minerals was also identified. In addition, following recent case law, the Inspector highlighted the need to consider the presentation of evidence and information relating to the Sustainability Appraisal.

4. The Inspector called for an Exploratory Meeting to take place on 23rd April 2012 to clarify how best to proceed in the light of his concerns. At the meeting the Council confirmed the additional work that could be undertaken to address the Inspectors issues and requested that the Examination be suspended to allow this work to be undertaken.
5. On the 1st May 2012 the Inspector wrote to the Council informing us of his decision on the way forward for the Examination following the Exploratory Meeting. The Inspectors decision was to suspend the Examination process for approximately six months until November 2012. In his reasons for agreeing to the Council's request for a suspension the Inspector highlighted the Council's willingness to respond positively to address his key concerns, that the timetable for additional work shows that it can be completed within six months and that the additional evidence is intended to clarify and explain and not to dramatically change the Core Strategy's implementation intentions. The Inspector also indicated that he was satisfied that the Council had successfully demonstrated that it has complied with the duty to co-operate legal test.
6. At Planning Committee on 17th May 2012 Members approved the Community Stadium and retail scheme at Monks Cross. The Inspector wrote to the Council on the 18th May 2012 indicating that following the decision on the Community Stadium a radical review of the Core Strategy would be required. This included reviewing the Council's evidence base and policies specifically in relation to Retail (Policy CS17), Transport (Policy CS18), Employment (Policy CS16), Community Facilities (Policy CS11) and the York Central Strategic Allocation (CS3). The Inspector was concerned that such likely changes would result in a substantially different set of strategic polices and direction for York from those submitted. Accordingly, the Director of City and Environmental Services wrote to the Inspector on 28th May 2012 to inform him of the decision to reluctantly recommend to Council the withdrawal of the document.

Public Policy Context

7. During the latter stages of the development of the LDF Core Strategy there were considerable changes to the public policy context, these are briefly summarised below as they are clearly important in understanding the current context.

National Planning Policy Framework (2012)

8. The National Planning Policy Framework (NPPF) represents a fundamental reassessment of both the overall direction and the detail of the planning system in England. It is intended to support economic recovery and play a key role in delivering the government's localism agenda. The NPPF is the outcome of a review of planning policy, designed to consolidate policy statements, circulars and guidance documents into a single concise Framework (a reduction of over a thousand pages of guidance to around 50). The NPPF had been the subject of significant and prolonged public debate following consultation on a draft in the autumn of last year.
9. The overriding message from the Framework is that planning authorities should plan positively for new development, and that 'planning should operate to encourage and not act as an impediment to sustainable growth'.
10. At the heart of the new system is a new 'presumption in favour of sustainable development'. This requires local plans to meet development needs and for development proposals that accord with the local plan to be approved without delay. The NPPF includes a presumption in favour of sustainable development that applies where a local plan is absent, silent or out of date. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits. The NPPF seeks to define sustainable development and refers explicitly to the five principles of the UK Sustainable Development Strategy as well as the UN Brundtland definition.
11. A significant change to the previous policy approach is that the NPPF refers to 'Local Plans' rather than 'Local Development Frameworks'. It appears from the document that it is the Government's intention that there is to be a movement away from a folder of development plan documents to a single plan.

Neighbourhood Planning

12. The Localism Act introduces new rights and powers for communities. A new 'neighbourhood' layer has been added to the planning system. This includes local authorities having a duty to provide advice and support to communities wishing to prepare Neighbourhood Plans. These plans should be produced in conformity with an authority's Local Plan. It will be important to

ensure that work on both Neighbourhood Plans and high levels plans are appropriately interlinked.

Duty to Cooperate

13. The Localism Act requires that local planning authorities demonstrate co-operation in plan making with adjoining or nearby authorities and other organisations in relation to cross boundary issues. Section 110 of the Localism Act transposes the Duty to Co-operate into the Planning and Compulsory Purchase Act 2004 and introduces section 33a, which sets out a Duty to Co-operate in relation to the planning of sustainable development (“the Duty”). The Duty applies to all local planning authorities, county councils and ‘prescribed bodies’ and requires that they must co-operate with each other in maximising the effectiveness with which development plan documents are prepared. The Localism Act states that in particular the Duty requires that engagement should occur constructively, actively and on an on-going basis during the plan-making process and that regard must be given to the activities of other authorities where these are relevant to the local planning authority in question. Further detail on how the provisions of the Act should be implemented is provided within the NPPF.

Options

14. Given the context described in paragraph 2 -13 above the progression of the currently submitted LDF Core Strategy is not considered credible. It is not therefore possible, from a technical point of view, to recommend any other action than withdrawal of the LDF Core Strategy from the examination process.

Next Steps

15. Following the withdrawal of the plan there are effectively two options when considering the way forward:
 - the LDF Core Strategy could be revised, subject to consultation then resubmitted; or
 - a Local Plan could be produced for the City.
16. As highlighted in paragraph 11 above the NPPF published in March 2012 indicates that nationally LDFs will be replaced by Local Plans. This is interpreted to refer to a single document encompassing the function of all LDF documents. This is the clear intention of Government public policy and for this reason it is

questionable whether the resubmission of the LDF Core Strategy would be sensible. Indeed the Core Strategy Inspector in his comments prior and during the LDF Core Strategy Exploratory Meeting appeared to already be pushing the Council toward a far more detailed document than that originally envisaged for LDF Core Strategies.

17. The case for moving to a Local Plan is strengthened when consideration is given to the potential timetable for revising the Core Strategy relative the introduction of Local Plans through the NPPF. The Core Strategy Inspector indicated in his letter to the authority dated 18th May 2012 that a radical review of the Core Strategy would be required. If we were minded to amend the Core Strategy this would effectively require the re-run of the preferred options stage consultation as well as repeating the submission element. It is considered that all of this additional work, along with the other work arising from the Exploratory Meeting, would not be able to be completed in less than around 18 months. Following this the Council would also need to progress the LDF Allocations and Designations Document.
18. Officers have begun to consider the likely timetable for the production of a Local Plan. It should be stressed that whilst the broad coverage and content of Local Plans are understood they represent a new form of planning making. The exact level of detail, evidence base requirements and levels of consultation at each stage are yet to be examined and tested. This work however suggests that it would be possible to have a Local Plan in place in around a 24 – 30 month period.
19. Officers are presently considering the resource implications of this work. In addition officers are also in continued dialogue with the Planning Advisory Service to ensure that we have the best understanding possible of the national position along with resourcing implications. A report on the way forward including a project plan and a risk assessment will be presented to the Council's Cabinet in due course.

Corporate Priorities

20. The development plan for York has a relationship to all five specific priorities of the Council Plan.

Implications

21. The following implications have been assessed.

- **Financial** – The withdrawal of the LDF Core Strategy will necessitate the production of a revised plan and associated evidence base. Based on current estimates this can be accommodated within the budgets allocated for 2012/2013 (including the LDF Reserve). There will need to be additional resources allocated in future years. This will need to be considered as a part of the 2013/14 budget process.
- **Human Resources (HR)** – The withdrawal of the LDF Core Strategy will require the production of a revised plan and associated evidence base this will requires the development of a comprehensive work programme that will predominantly, although not exclusively, need to be resourced within CES.
- **Equalities** – Through the stages of the Core Strategy's development equalities issues have been considered. This would need to be built into any future programme.
- **Legal** – withdrawal of the plan will need to be compliant with the relevant statutory and regulatory framework. In addition there are potential Development Management implications (see paragraph 23).
- **Crime and Disorder** - *None*
- **Information Technology (IT)** - *None*
- **Property** - *None*
- **Other** – *None*

Risk Management

22. The NPPF came into force immediately upon its publication. The provisions of the Framework, including the presumption in favour of sustainable development applies to decisions on proposals with immediate effect in areas where no adopted local plan is in place. Currently, under Section 38 of the 2004 Planning Act the development plan for York remains the RSS (until such a time as the Secretary of State uses his powers under the Localism Act to revoke it). There is no adopted or emerging plan (if the Core Strategy is withdrawn).
23. The Planning Advisory Service (PAS) has indicated that for Local Authorities where there are no adopted policies it may be particularly important to consider taking early action to effectively manage development. Potential approaches include position statements or interim policy position statements. The purpose of any such action would be to set out material considerations that

are capable of carrying weight in the determination of planning applications. This approach is recommended given the potential timescales moving forward. Any interim statement for York would need to reflect the NPPF, established evidence base and those aspects of RSS which are relevant and we would wish to continue to use.

Recommendations

24. Council is asked to instruct officers to undertake the necessary formal steps to withdraw the LDF Core Strategy from the Examination process, to enable the Council to produce a plan which is fully compliant with the National Planning Policy Framework (NPPF).

Reason: To enable the Council to produce a plan which is fully compliant with the National Planning Policy Framework (NPPF).

Contact Details

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Report
Approved

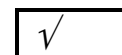


Date 3rd July 2012

Specialist Implications Officer(s)

Wards Affected: *List wards or tick box to indicate all*

All



For further information please contact the author of the report